

Billings (John S.)

[petition of - to the Chief Justice]

Filed Oct. 26, 1887.—J. R.

IN THE COURT OF CLAIMS OF THE UNITED STATES.

JOHN S. BILLINGS

vs.

THE UNITED STATES.

Department Case. No. 29.



To the Chief Justice and Judges of the Court of Claims:

I.

The petition of John S. Billings, respectively represents that he is a citizen of the United States and a surgeon in the army of the United States; that on the 13th May, 1881, being then a surgeon as aforesaid he was ordered by the General of the Army to proceed to London, England, and to visit in the interests of the Medical Department on public service such points as might be designated by the Surgeon General. A copy of said order is hereto annexed and marked Exhibit A. On the 8th June, 1881, he received instructions from the Surgeon General in accordance with said order directing him to commence to obey the order about June 20, 1881, and to resume his duties in Washington not later than

November 20, 1881. A copy of said order is hereto attached and marked Exhibit B.

Your petitioner proceeded to obey said order and instructions, and in doing so traveled 16,758 miles as appears by a schedule hereto attached, marked Exhibit C. The route pursued by him and the statement of the number of miles traveled were approved by the Surgeon General of the Army, November 14, 1881.

The results of the obedience of petitioner to said order were, (1), the making of extensive arrangements for exchanges for the Army Medical Museum and Library; (2), a large number of gifts for these institutions; (3), advantageous purchases; (4), much valuable information with regard to plans and arrangements for museums, libraries and hospitals, and with regard to statistical methods.

He further represents that on the 21st day of February, 1884, being a surgeon as aforesaid, he received an order from the Lieutenant-General U. S. A. to proceed to London, England, and to Copenhagen, Denmark, the order specifying expressly that the travel therein directed was necessary for the public service, copy of which is hereto annexed and marked Exhibit D, and on the 30th June, 1884, received instructions thereunder from the Surgeon General, a copy of which is hereto annexed and marked Exhibit E. Your petitioner proceeded to obey said order and instructions, and in doing so traveled 10,571 miles.

He further represents that for mileage on the first journey above stated, he was on the 14th December, 1881, paid \$1,340.24 by Major W. Smith, paymaster U. S. A., and for mileage on the second journey he was on the 3rd of October, 1884, paid \$845.68 by Major James R. Roche, paymaster U. S. A.

He further represents that the travel so charged for by him was actually performed by him while on duty and under said orders; that he was not during said journeys furnished with transportation by the Quartermaster's

Department, nor did he travel upon a conveyance belonging to or chartered by the United States during any portion of said journeys.

II.

He further represents, that on the 5th January, 1886, he was notified by the Second Auditor that the payment aforesaid of \$1,340.24 to him for mileage had been disallowed by the Second Comptroller, and he was requested to refund said sum, and similarly he was notified that the aforesaid payment of \$845 was disallowed, and he was requested to return the same. On the 12th April, 1887, he received from the Paymaster General an official notification that the Second Comptroller had re-reported him to be in arrears in the sum of \$2,185.92 (being the aggregate mileage of said two trips), a copy of which is hereto annexed and marked Exhibit G. Your petitioner in his explanation appealed to the Secretary of War, and thereupon without ordering any stoppage of your petitioner's pay the Paymaster General submitted the case to the Secretary of War for his decision.

No order for the stoppage of your petitioner's pay has been issued by the Paymaster General or the Secretary of War, and the latter has transmitted the case to your honorable court as follows:

War Department,
WASHINGTON CITY, May 25, 1887.

To the Honorable the Judges of the Court of Claims:

The undersigned, Secretary for the Department of War of the United States, respectfully represents that two claims have been made against said Department by Surgeon J. S. Billings, United States Army, for mileage for travel on duty under the orders of the War Department of March 30, 1881, and February 1, 1884, respectively;

that payment of mileage due under the first order was made by Major William Smith, Paymaster United States Army, and under the second order by Major James R. Roche, Paymaster United States Army; that said payments were disallowed by the accounting officers of the Treasury Department, the first under date of November 15, 1885, and the second under date of December 14, 1885: that the matter of the stoppage of the pay of said Surgeon Billings, under paragraphs 2,445 and 2,446, of the Regulations of the Army of 1881, for the purpose of reimbursing the United States the amounts so disallowed, is now pending before the War Department, and that said Surgeon Billings resists such stoppage, claiming that under existing laws and regulations he is justly entitled to the mileage charged for the journeys performed under the lawful orders of his superior.

As such claims involve controverted questions of law and the decision will furnish a precedent for the future action of the War Department in the adjustment of a class of cases, the undersigned hereby causes said claims, with all the papers pertaining thereto, to be transmitted to the Court of Claims, for its action under section 1063 of the Revised Statutes of the United States, or under such other statute as the court may deem applicable.

W. C. ENDICOTT.

Your petitioner respectfully prays your honorable court to exercise such jurisdiction in this case as is authorized by the Acts of Congress approved March 3, 1883, and March 3, 1887, and report to the Secretary of War your findings of fact and conclusions of law.

And your petitioner further represents that he is without any legal relief against the disallowance of said accounts of the accounting officers of the Treasury Department, and so long as the Secretary of War does not order a stoppage of his pay he cannot bring said accounts

before any legal tribunal, wherefore he prays for an order and decree directing the accounting officers to strike off said disallowances, and restraining and forbidding the officers of the Treasury from instituting any proceedings against him on said disallowances, and for such other and further relief as to the court seems proper and equitable.

JOHN S. BILLINGS.

JOS. K. McCAMMON,
JOHN S. BLAIR,
Attorneys.

CITY OF WASHINGTON,
District of Columbia. } *To wit:*

Before me, a Notary Public in and for said city and District, personally came John S. Billings, who being by me duly sworn saith that the statements in the foregoing petition are just and true to the best of his knowledge and belief.

Sworn to and subscribed before me this 25th day of October, 1887.

JOHN S. BILLINGS.

D. RITTENHOUSE,
[SEAL.] *Notary Public.*

Exhibit "A."

Special Orders. No. 110.

Headquarters of the Army,
Adjutant General's Office,
WASHINGTON, May 13, 1881.

EXTRACT.

* * * * *

3. By direction of the Secretary of War, Surgeon John S. Billings, U. S. Army, will proceed to London, England, as a delegate to the International Medical Congress, which is to meet in that city in August next. He will also visit on public service, in the interests of the Medical Department, such points in Holland, Belgium, Germany, and elsewhere, as may be deemed necessary by the Surgeon General of the Army, and will be governed, in complying with the requirements of this order, by such special instructions as he may receive from the Surgeon General.

By command of GENERAL SHERMAN:

R. C. DRUM,
Adjutant General.

Official:

H. C. CORBIN,
Ass't Adjutant General.

A true copy.

C. H. CRANE,
Ass't Adjutant General
U. S. Army.

Exhibit "B."

War Department,
Surgeons General's Office,
WASHINGTON, D. C., June 8, 1881.

SURGEON J. S. BILLINGS, U. S. Army,
Surgeon General's Office.

SIR:

In complying with the requirements of par. 3, Special Orders 110, dated Headquarters of the Army, Adjutant General's office, Washington, May 13th, 1881, you will be governed by the following instructions:

I. In addition to attending the International Medical Congress in London, you will confer with the agents of this office in London, Paris, Amsterdam, and Leipzig, relative to the system of exchanges of the publications of this office and European institutions, and will examine the condition of the books belonging to this office now in the hands of these agents.

II. You will endeavor to secure exchanges for the Army Medical Museum and Library with the principal medical institutions of Europe, and especially with the great university libraries and medical schools.

III. You will examine the most recent and best specimens of hospital construction, and also of museum and library buildings, in England, France and Germany, with special reference to the wants of this Department.

IV. You will make special inquiry into the methods of obtaining and compiling Vital Statistics in England, Belgium, France, Germany, Switzerland, Austria, Holland and Italy, to enable you to furnish the information desired by the National Board of Health upon this subject.

V. The precise places to be visited, and the order in

which they are to be taken, to enable you to carry out these instructions, is left to your discretion.

VI. You will commence to obey your order about June 20, and will return and resume your duties in this office not later than November 20.

Very respectfully,

Your obedient servant,

(Signed)

J. K. BARNES,

Surgeon General.

A true copy.

(signed) R. MURRAY,

Surgeon General, U. S. Army.

Surg. Gen's Office, November 21, 1885.

Exhibit "C."

Memorandum of travel performed by Surgeon J. S. Billings
U. S. A., from June 20, 1881, to November 20, 1881.

| | MILES. | |
|--|--------|--------|
| From Washington, D. C., to London, England . . . | 3,970 | 3,970 |
| Thence to Brussels, Belgium | 213 | 221 |
| " " Bonn, Germany | 161 | 162 |
| " " Frankfort, o. M. Germany | 109 | 133 |
| " " Heidelberg, Germany | 55 | 55 |
| " " Strasburg, Germany | 85 | 85 |
| " " Basle, Switzerland | 89 | 89 |
| " " Geneva, Switzerland | 168 | 199 |
| " " Paris, France | 289 | 390 |
| " " London, England | 278 | 300 |
| " " Portsmouth, England | 74 | 74 |
| " " London, England | 74 | 74 |
| " " Leipzig, Germany | 652 | 662 |
| " " Berlin, Germany | 100 | 100 |
| " " St. Petersburg, Russia | 1,003 | 1,016 |
| " " Moscow, Russia | 406 | 406 |
| " " St. Petersburg, Russia | 406 | 406 |
| " " Helsingfors, Russia, by sea | 191 | 191 |
| " " Stockholm, Sweden | 270 | 270 |
| " " Copenhagen, Denmark | 417 | 385 |
| " " Kiel, Germany | 176 | 176 |
| " " Dresden, Germany | 362 | 362 |
| " " Prague, Austria | 110 | 110 |
| " " Vienna, Austria | 217 | 158 |
| " " Buda Pesth, Austria | 171 | 171 |
| " " Munich, Germany | 450 | 450 |
| " " Florence, Italy | 447 | 400 |
| " " Milan, Italy | 217 | 217 |
| " " Paris, France | 291 | 593 |
| " " London, England | 278 | 300 |
| " " Southampton and Netley, England | 81 | 81 |
| " " London, England | 81 | 81 |
| " " Edinburgh, Scotland | 400 | 400 |
| " " Glasgow, Scotland | 47 | 47 |
| " " Manchester, England | 220 | 220 |
| " " Liverpool, England | 31 | 31 |
| " " New York, N. Y. | 3,440 | 3,540 |
| " " Washington, D. C. | 228 | 228 |
| Total | 16,758 | 16,758 |

The travel as above set forth, was necessary, and made
in obedience to my instructions, as contemplated in S. O.,
No. 110, A. G. O., May 13, 1881.

(Signed)

JOS. K. BARNES,

Surgeon General, U. S. Army.

SURGEON GENERAL' OFFICE,

Washington, D. C., Nov. 14, 1881.

Exhibit "D."

Special Orders. No. 44.

Headquarters of the Army,
Adjutant General's Office,
WASHINGTON, February 21, 1884.

EXTRACT.

* * * * *

8. By direction of the Secretary of War, Lieutenant-Colonel Joseph B. Brown and Major John S. Billings, Surgeon U. S. Army, will proceed to London, England, and to Copenhagen, Denmark, to attend the International Health Exhibition to be held at the former place in May next, and as delegates to the International Medical Congress which is to meet at the latter place in August next, and will include Berlin, Germany, in their route to or from Copenhagen. In complying with the requirements of this order they will be governed by such special instructions as they may receive from the Surgeon General. The travel herein directed is necessary for the public service.

By command of Lieutenant General SHERIDAN:

R. C. DRUM,
Adjutant General.

Official:

(Signed) S. N. BENJAMIN,
Assistant Adjutant General.

A true copy.

(Signed) D. L. HUNTINGTON,
Surgeon U. S. Army.

Major BILLINGS,
Through Surgeon General.

Exhibit "E."

War Department,
 Surgeon General's Office,
 WASHINGTON, D. C., June 30, 1884.

Major JOHN S. BILLINGS,
 Surgeon U. S. Army,
 Surgeon General's Office,
 Washington, D. C.:

SIR: In complying with paragraph 8, Special Orders No. 44, dated Headquarters of the Army, Adjutant General's Office, February 21, 1884, you will visit Edinburg, Heidelberg, Leipzig and Berlin, on your way to Copenhagen, on business connected with the Army Medical Department. After the close of the Copenhagen Congress you will proceed to the Hague and attend the International Sanitary Congress, to be held in that city August 21st to 25th, and will then return to the United States via London and Liverpool.

Very respectfully, your obedient servant,
 R. MURRAY,
 Surgeon General, U. S. Army.

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Exhibit "G."

War Department,
 Paymaster General's Office,
 WASHINGTON, April 12, 1887.

Major JOHN S. BILLINGS,
 Med. Dept. U. S. Army,
 3027 N St., Washington, D. C.:

SIR: I have respectfully to inform you that the Second Comptroller has reported you in arrears to the United

States in the sum of two thousand one hundred and eighty-five and ninety-two hundredths dollars (\$2,185.92) on account of "erroneously paid mileage from Washington, D. C., to sundry places in Europe and return (two trips, one in 1881 and one in 1884) by Major W. Smith, on Vou. Co., paid Dec. 14, 1881, and by Major J. R. Roche on Vou. so paid October 3, 1884."

Under section 1766, Revised Statutes, this office will be obliged to place the amount stated, as a stoppage against your pay on the Monthly Stoppage Circular. The stoppage will be held in abeyance until May 15, 1887, awaiting evidence of payment or removal.

Very respectfully, your obedient servant,

WM. B. ROCHESTER,

Paymaster General, U. S. A.